

FESCO Cleanup Settlement

FY2004 Request: \$118,639
Reference No: 39297

AP/AL: Appropriation
Category: Natural Resources
Location: Deadhorse
House District: Arctic (HD 40)
Estimated Project Dates: 05/01/2004 - 06/30/2005

Project Type: Health and Safety
Contact: Bob Loeffler
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Brief Summary and Statement of Need:

This project will allow DNR to receive and expend \$118,638.12 to clean up a contaminated lease site near Deadhorse on the North Slope. First Energy Services Company (FESCO) has been operating as a subleasee on this state lease tract that has historic site contamination. FESCO, DNR, and DEC agreed that if FESCO pays the state \$118,638.12 to cover part of the clean-up costs, they could be released from any additional clean-up responsibilities. This agreement and payment will benefit the State, since a source of contamination will be removed, the land will be available for lease, and once again be available to generate revenue for the State.

| Funding: | FY2004 | FY2005 | FY2006 | FY2007 | FY2008 | FY2009 | Total |
|-----------------|------------------|---------------|---------------|---------------|---------------|---------------|------------------|
| Stat Desig | \$118,639 | | | | | | \$118,639 |
| Total: | \$118,639 | \$0 | \$0 | \$0 | \$0 | \$0 | \$118,639 |

| | | | | |
|---|--|---------------------------------------|---|-----------------------------------|
| <input type="checkbox"/> State Match Required | <input checked="" type="checkbox"/> One-Time Project | <input type="checkbox"/> Phased - new | <input type="checkbox"/> Phased - underway | <input type="checkbox"/> On-Going |
| 0% = Minimum State Match % Required | | <input type="checkbox"/> Amendment | <input type="checkbox"/> Mental Health Bill | |

Operating & Maintenance Costs:

| | <u>Amount</u> | <u>Staff</u> |
|----------------------|---------------|--------------|
| Project Development: | 0 | 0 |
| Ongoing Operating: | 0 | 0 |
| One-Time Startup: | 0 | 0 |
| Totals: | 0 | 0 |

Additional Information / Prior Funding History:

This is a new project request.

Project Description/Justification:

The State leases this property to Frontier Equipment Company (FEC). FEC subleased the property to HB&R, a corporation owned by FESCO. To date, FEC has not cleaned up the contamination. If FEC does not initiate a cleanup by July 1, 2004, the lease will be terminated. (Note that FEC has appealed this requirement to the DNR Commissioner.)

While FESCO had limited responsibility for any of the contamination, they were concerned that they would be held responsible and would have to complete a costly cleanup. To avoid this, they entered into an agreement with DNR and DEC where FESCO would spend \$200,000 to cleanup an area on the lease in exchange for the state releasing FESCO of liability for past contamination.

Due to the actions of FEC (lease holder), FESCO (sublease) was not able to complete the cleanup. FESCO, DNR, and DEC agreed that FESCO could fulfill the agreement by paying the State the balance of the \$200,000 that was to be spent on the cleanup. This amount was paid to DNR (\$118,638.12) and will be used by DNR and DEC to cleanup the leasehold once liability issues have been resolved with FEC. Thus, these funds will be used to cleanup contaminated State land.

? **Constitutional or statutory responsibilities:** Various state statutes regulate land, subsurface, and water pollution (including AS 46.03.710, AS 46.03.740). When a discharge does occur, AS 46.04.020 requires immediate containment and clean up of the discharge. In the case of this property, the lessee has failed to clean up the spilled oil products. AS 46.04.020 allows DEC to undertake the cleanup if DEC determines that containment or cleanup

activities are not adequate. Thus, in this case, FEC is responsible for the cleanup of the contamination. This CIP will make funds available for DNR and DEC to cleanup the priority areas if FEC fails to complete a cleanup.

- ? **Health and safety issues:** Central to this proposed project is the health and safety of Alaskans and the environment. Soil contamination on the North Slope is a threat to surface water sources and the wildlife that inhabit the area. Cleaning up this contamination would eliminate this threat.
- ? **Generation of revenue for the State:** Due to environmental liability issues, it is the policy of DNR to not lease contaminated property. If this lease were terminated, these funds would be used to start the cleanup process. While these funds would probably not be enough to clean up the entire leasehold, the most highly contaminated areas could be cleaned up. Eventually, the land will be available for lease and once again generate revenue for the State.
- ? **Creation of on-going private sector jobs:** All of these funds would be used to hire a contractor to cleanup the property. Thus, this project will provide short-term private sector jobs.

Project relationship to proposed operating budget:

This project will not significantly impact the operating budget. DNR and DEC staff funded from the operating budget will need to coordinate the contracting and clean-up effort. It has the potential to result in the generation of new funds through the issuance of a new lease. Note that these funds will not be adequate to cleanup the entire pad. If the lease is terminated, DNR plans to add this site to the list of orphan sites to be cleaned up under the BP Exploration (Alaska) Inc. Charter Agreement. BP could then clean up the remaining contamination without the additional expenditure of State funds.

Why is this Project Needed Now:

These funds have become available to DNR through a settlement agreement with FESCO. The contamination on the property has the potential to spread and affect adjacent property, including North Slope wetlands. Cleanup should be done promptly to minimize the threat of this contamination.

Specific Spending Detail:

All money received will be used to hire contractors to clean up the site.

300 (contractual) - \$118,638.12

Project Support:

DEC and FESCO support the project. No public support has been voiced, but the project would likely be supported by North Slope Borough and North Slope producers.

Project Opposition:

No known or suspected opposition.